IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S)	Rana P. Singh et al.	GROUP ART UNIT:	2811
APPLN. NO.:	10/045,913	EXAMINER:	Samuel A. Gebremariam
FILED:	January 9, 2002		
TITLE:	SEMICONDUCTOR DEVICE STRUCTURE		

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office.

on 9-28-04

Pat Thomac
Signature

Pat Thomas
Printed Name

REPLY BRIEF IN RESPONSE TO THE EXAMINER'S ANSWER

Commissioner for Patents
Alexandria, VA 22313-1450

Board of Patent Appeals & Interferences:

This Reply is filed pursuant to 37 C.F.R. §41.41 in the matter of the Appeal to the Board of Appeals and Interferences of the rejection of the claims of the above-referenced application for patent. This Reply is submitted in response to the Examiner's Answer dated July 28, 2004, and within the time limit for response to same, said time limit ending September 28, 2004.

REPLY TO EXAMINER'S ARGUMENTS

The Examiner's Answer raises at least one new point of argument. Specifically, the Examiner newly cites case law with respect to interpreting the term "grow". Appellants, in the Appeal Brief (mailed on October 22, 2003), argued that growing is not the same as depositing. The Examiner reopened prosecution in order to introduce Merriam-Webster's Collegiate Dictionary (a non-technical dictionary) to define "grow". Appellants, in the Supplemental Appeal Brief (mailed on April 29, 2004), argued that the Examiner incorrectly relied on a non-technical dictionary to define a technical term. In the Examiner's Answer, in an attempt to respond to Appellants' arguments against the use of a non-technical dictionary to interpret the technical term "grow," the Examiner states that "the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification," and newly cites *In Re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) to support this. The Examiner proceeds to state that "office personal are to give claims their broadest reasonable interpretation in light of the supporting disclosure," and newly cites *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997) to support this. The Examiner also proceeds to state that "limitations appearing in the specification but not recited in the claim are not read into the claim," and newly cites *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969) and *In re Zletz* at 321-22.

Appellants wish to point out, though, that Appellants' arguments made with respect to interpreting the term "growing" does not contradict this older case law cited by the Examiner. However, Appellants do wish to point out that more recent Federal Circuit decisions have provided further guidance in construing claims and must therefore also be taken into consideration. Appellants, in the Supplemental Appeal Brief, argued that the Examiner incorrectly relied on a non-technical dictionary definition rather than relying on the usage of depositing and growing as understood by persons skilled in the relevant art. Appellants will not repeat herein all the arguments previously made in the Supplemental Appeal Brief, but will highlight the case law that was used in these arguments. (Note that

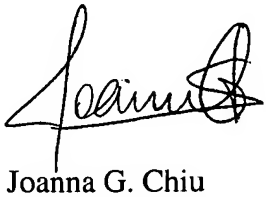
the full citations of these cases is provided in the Supplemental Appeal Brief.) Firstly, Appellants pointed out that in construing claims, the focus begins with the language of the claims themselves and cited *Dow Chemical Company*, a recent 2001 Federal Circuit case. Secondly, Appellants pointed out that the claims need to be construed as understood by persons skilled in the relevant art and also cited *Dow Chemical Company* in support of this statement. Appellants also pointed out that the Federal Circuit has repeatedly cautioned against the use of non-scientific dictionaries for defining technical words, citing *AFG Industries*, another recent 2001 Federal Circuit case. Therefore, Appellants submitted that the Examiner incorrectly relied on the definition of "growing" as presented in a non-technical dictionary.

In summary, Appellants cited more recent Federal Circuit case law which provides further guidance to those less recent cases cited by the Examiner with respect to claim construction. These more recent Federal Circuit cases should therefore also be taken into consideration when construing claims. Therefore, in light of this more recent case law, the term "growing" should be construed as understood in the relevant art area of semiconductor processing, as argued by Appellants in the Appellant's Appeal Brief and Supplemental Appeal Brief.

CONCLUSION

Appellants respectfully request that the rejection of the appealed claims be reversed by the Board for the reasons stated above, in the Appellants' Appeal Brief, and in the Appellants' Supplemental Appeal Brief.

Respectfully submitted,



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